

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3680 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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RAMJIBHAI A. HIRPARA

Versus

DIRECTOR OF EDUCATION  
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Appearance:

MR BR KYADA for Petitioner  
MR DP JOSHI ASSTT. GOVERNMENT PLEADER for Respondent  
Nos. 1 and 3  
NOTICE SERVED for respondent no.2  
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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 11/02/2000

ORAL JUDGEMENT

#. One Ramajibhai Hirpara is shown as the sole petitioner, learned advocate appearing for the petitioner has submitted that the persons whose names are mentioned in Annexure : 'A' (collectively) are also the affected

persons. The present petition is filed seeking a writ of mandamus from this Court directing the respondent no.3 to pay House Rent Allowance at the rate of Rs.450/per month instead of Rs.100/- per month. Further direction is also sought against the respondent no.2 -the Management to grant House Rent Allowance to the petitioner and other employees working under them as per the Government Resolution No. BCR-1087-4-M, dated 1st June, 1987 (hereinafter referred to as the "said G.R."). The case of the petitioner in the petition is that the petitioner and other teachers and staff members are working in the school known as Smt. Manekba Krushi Vidyalaya at Adalaj and they are residing at Adalaj, Ahmedabad and Gandhinagar as per the details set out in Annexure "A" (collectively) produced for petitioner and other individual affected persons. The case of the petitioner is that, they are entitled to get House Rent Allowance as mentioned in Second Table pertaining to House Rent Allowance of the said G.R.

#.. An affidavit is filed by the District Education Officer, Gandhinagar controverting the facts stated in the petition. It is stated in Para 4 of the affidavit that the petitioner is granted H.R.A. and C.L.A. as per order dt. 15th December, 1975 as per his claim from 1-2-1988. A list of 13 persons is also set out in the said para and about them it is submitted that the said employees are serving in Smt. Manekba Krushi Vidyalaya at Adalaj and are staying also at Adalaj. It is further stated that in view of the contents of the said G.R. the said employees are not entitled to claim H.R.A. as well as C.L.A. as their place of service and place of residence is at Adalaj itself, and Adalaj is not falling either in A, B-1, B-2 Class city or even in " C " Class City, it therefore falls within Class of "unclassified " cities.

#. In Para 5 of the affidavit, it is submitted that two of the petitioners -Shri Keshavlal Babaldas Valand and Shri Raval Trilockchandra Manilal are working in Adalaj and staying at Gandhinagar but the distance between Adalaj and Gandhinagar exceeds 8 Kms. and Adalaj falls within the category of 'Unclassified' cities, they are also not entitled for the H.R.A. as claimed in the petition. Mr. B.R.Kyada, the Learned Counsel for the petitioner disputes the statement made in the affidavit about the exact distance between Adalaj and Gandhinagar. But then it becomes a clear question of "disputed facts" which cannot be entertained in this petition.

#. It is also stated in Para 6 of affidavit that

Ravjibhai Naranbhai Senjani and Dave Binaben Bhairavshanker are working at Adalaj and are staying at Ahmedabad. It is fairly stated in the said Para about these two employees that on their fulfilling condition No.1(3) of Government Resolution dt. 15th February, 1975 mentioned in Government Resolution dt. 14th June, 1988, they will be entitled to get H.R.A. and C.L.A. as per their claim in the petition.

#. However, at this juncture, Mr. B.R.Kyada, the learned advocate for the petitioner submits that the petitioner and other remaining employees may be given a liberty to make a representation to the concerned authorities to put forward their claim for the entitlement of H.R.A. at a higher rate according to Rules. The learned counsel also seeks liberty to satisfy the concerned authorities about their fulfilling of necessary conditions for the same. The petitioner and other affected persons are always at liberty to make such representation and the authorities shall always be open to consider such representation/s as and when made in accordance with law. In that, this court, while issuing Rule, had pass an interim direction to that effect that " By way of interim direction, the respondents are directed to consider the cases of those petitioners whose place of duty is at Adalaj School and who of necessity reside, reside in Ahmedabad i.e. Petitioner No.1 Ramjibhai Hirpara, in whose case the H.R.A. is already granted as claimed in the petition. The petitioners concerned agree to supply the necessary evidence in support of their applications within one week from today. The respondents are directed to consider and decide the same within 15 days thereafter." However the affected persons, if so choose, may file a fresh representation, which the authorities shall consider in accordance with law as expeditiously as possible.

#. In the result, the petition fails. Rule is discharged with no order as to costs.

Date: 11/2/2000. -----  
(ccshah)